

MIE (Rev.04/18) Motion and Brief in Support

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA

Plaintiff(s),

Case No. 20-mj-30135; 20-mc-50585
: 19-cv-12313

v.

Judge

JYDE ADELAKUN

KIMBERLY G. ALTMAN

Defendant(s).

MOTION FOR

Review, order to stay proceeding(s) pending review and or appeal against the decision of Oct 26, 2021 and to grant all reliefs of sought by the defendant(s).

I, Jyde Adelakun, appearing *pro se*, respectfully request that the Court order grant the defendant's motion for review, stay all further proceeding(s) in this matter and related matters pending the review outcome, set aside the decision of the magistrate judge Kimberly G Altman dated October 26th, 2021, decide on the motions of the defendant(s) and further grant all the reliefs and or prayers sought by the defendant(s) in all the motions under 20-mj--30135 and 20-mc-50585 without prejudice and further to declare that this Court lacked the Jurisdiction from the outset to proceeding against the defendant and further that this court have acted inconsistent with the due process of the law and the 4th, 5th, 6th, 10th and 14th Amendments of the Constitution of the United States and the Fundamental Fairness.

for the reasons that follow in the attached brief in support of this motion.

E.D. Mich. Local Rule 7.1 requires that the parties attempt to agree on what you are asking for in this motion before filing it with the Court. Accordingly, I certify that:

☐ I contacted the opposing party/parties to explain my request. The opposing party/parties _____ my request.

OR

☒ I attempted to contact the opposing party/parties by email to the office of the Attorney General of the United States / VIA mark.chasteen@usdoj.gov and michael.el--zein@usdoj.gov on October 27th, 2021

but was unable to discuss my request with the opposing party/parties.

MIE (Rev.08/2020) Motion and Brief in Support

WHEREFORE, I respectfully request that the Court grant this motion and order the requested relief.

Dated: October 28th, 2021



Signature

Jyde Adelakun

Printed Name

c/o 11300 EXPO BLVD, #1013

Street Address

SAN ANTONIO, TEXAS 78230

City, State, and Zip Code

+971 50 662 1652

Telephone Number

BRIEF IN SUPPORT OF MOTION

STATEMENT OF ISSUES PRESENTED

1. Whether the Court should order:
to set aside the decision of the magistrate Judge Kimberly G Altman dated October 26th 2021, allow the review and decide on all the defendant's motions #8, #10, #11 and #13 in these matters under 20-mj-30135 and 20-mc-50585 ?
2. Whether the fugitive disentitlement doctrine, without prjudice, is applicable on the non convict defendant whom is NOT a fugitive pursuant 28 U.S.C § 2466 and whether the defendant has been denied justifiably and without prejudice in the decision of the magistrate of October 26, 2021, where the 6th Cir. previously applied differently in " re Prevot, 59 F.3d 556, 567 (6th Cir. 1995) ?
3. Whether the fugitive disentitlement pursuant 28 U.S.C § 2466 is applicable without prejudice, upon the non convict defendant who's freedom of movement by law, as in the defendant's situation, is being taken and restricted by another law to remain in the United Arab Emirates since October 2019, way prior to the criminal complaint, arrest warrant amongst others in these matters commenced on March 17th 2020 ?
4. Whether this court that lack(s) the jurisdiction to adjudicate in this matter and that have acted inconsistent with the due process of the law amongst other violations of the Constitutional provisions, to issuing null warrant(s) and or void order(s) amongst others as a result, is entitled to recognition, respect and honor in its judicial action(s) or decision(s) that are null and void even before reversal ?
5. Whether this court has the jurisdiction to adjudicate in this matter to issuing warrants pursuant Article III section 2 of the Constitution, Tenth Amendment of the Constitution, in conjunction with Rule 41 of the Federal Rules of Criminal Procedure read together with the Fourth, Fifth, Sixth and Fourteenth Amendments ?
6. Whether this court can confer jurisdiction where non exists and whether it can make a void procceeding valid as in this instant matters ?
7. Whether the fugitive disentitlement doctrine, without prjudice, is applicable on the non convict defendant whom, as in the instant case, did not flee the United States for the purposes of avoiding this Court jurisdiction, or whom did not refuse to surrender to the jurisdiction of this court ?
8. Whether the non convict defendant and the society have an interest in the prompt resolution of proceedings and whether the interest is served by allowing a defendant who did not flee the jurisdiction, as in this matter, to raise a defense and considering the fairness in proceeding without prejudice ?
9. Whether this court has, without prejudice, decided the pre trial motion(s) as speedily required in these matters ?

CONTROLLING OR MOST APPROPRIATE LEGAL AUTHORITY

(List any federal laws, court cases, court rules, etc., that support your request. This may include the Federal Rules of Civil Procedure and the Court's local rules.)

Constitution of the United States of America
4TH, 5TH, 6TH 10TH, AND 14TH AMENDMENTS, Article III Section 2 OF THE
CONSTITUTION OF THE UNITED STATES OF AMERICA;

FEDERAL RULES OF CRIMINAL PROCEDURE; FEDERAL RULES OF CIVIL
PROCEDURE; DISCLOSURE OF EVIDENCE ACT OF 2012;

28 U.S.C § 2466 ; 28 U.S.C § 636

See Ali Hijazi v. United States, case no. 11 - 788, wherein the Court of Appeals granted the writ and ordered the district court;

See United States v. The Public Warehousing Co., 2011 WL 1126333, *3 (N.D. Ga March 28, 2011);

See United States v. Catino, 735 F.2d 718, 724 (2d Cir. 1984);

See e.g In re Prevot, 59 F.3d 556, 567 (6th Cir. 1995);

See Schuster v. United States, 765 F.2d 1047, 1050-51 (11th Cir. 1985)

See United States v. Oliveri, 190 F. Supp. 2d 933, 936 (S.D. Tex. 2001).

See Molinaro v. New Jersey, 396 U.S. 365, 365 (1970);

United States v. Kashamu, 656 F. Supp. 2d 863, 866 (N.D. Ill. 2009), on reconsideration, No. 94-CR-172, 2010 WL 2836727 (N.D. Ill. July 15, 2010), aff'd, 656 F.3d 679 (7th Cir. 2011).

The doctrine is a discretionary tool that may be invoked by courts when a defendant refuses "to surrender as ordered." Kacaj v. Gonzales, 163 F. App'x 367, 368 (6th Cir. 2006).

United States v. Greever, 134 F.3d 777, 780 (6th Cir. 1998) (citations omitted).

See Old Wayne Mut. L. Assoc. v. McDonough, 204 U.S. 8, 27 SS. Ct. 236 (1907)

See Valley v. Northern Fire & Marine, Inc., 254 U.S. 345 ; See also English v. English, 72 Ill. App. 3d 736 ; Austin v. Smith, 312 F.2d 337, 343.

SEE ALSO AS READILY PLEADED IN ALL MOTIONS.

ARGUMENT

(Explain why request should be granted. State how any rules, statutes, or cases support your request. You may also refer to documents to support your request. These documents should be attached as exhibits, unless they were previously filed with the Court.)

ANSWER(S) TO ISSUES UNDER QUESTIONS 1 TO 8 PRESENTED.

The 14th Amendment of the United States Constitution gives everyone a right to due process of law and equal protection of the law, WHICH INCLUDES ORDER(S), DECISION(S), WARRANT(S) OR JUDGMENT(S) inter alia THAT COMPLY WITH THE RULES AND CASE LAW.

The honorable magistrate Kimberly G. Altman in her decision, erred when, contrary to the provisions under 28 U.S.C § 2466 and the case laws in the authority misinterpreted, she concluded the defendant as a fugitive as stated in quote (ECF No. 26, PageID 531-532):

"Based on his filings, it does not appear that Adelakun intends to submit to the Court's jurisdiction. He has not provided the Court with his present location, he has submitting filings in "care of" an address of one of his alleged associates in San Antonio, Texas, and he has provided an international telephone number. As the government correctly states: "any mystery as to Adelakun's present location is not one the Court needs to solve, because it is clear where Adelakun is not: the Eastern District of Michigan." (ECF No. 14, PageID.366-367). Under these circumstances, Adelakun has purposefully avoided facing the charges against him and is therefore considered a fugitive."

Whereas nothing under the provisions in 28 U.S.C § 2466 have been complied with towards the defendant and most importantly, the affiant in the affidavit admitted that he learnt that the defendant was arrested in the United Arab Emirates amongst others, prior to the affiant affidavit of complaint dated March 17th 2021. Neither have the affiant affirmed to have notified the defendant via the Authority of the UAE, that the Plaintiff have clearly liased with and in constant constant communication with, to serve the notice amongst others to the defendant to invoke the application of the 28 U.S.C § 2466 in this matter. None of the required prerequisite to the application of the 28 U.S.C § 2466 in this matters was complied with and the magistrate admitted to have read the submissions of the Plaintiff, so that, there's NO justification in law or case law for the magistrate judge to have concluded the defendant as a FUGITIVE in the first place and have further wrongfully applied the U.S Supreme Court cases amongst others to the instant matter of the defendant that is DISTINGUISHABLE IN CASU and NOT COMPARABLE TO the cases where the defendant(s) in those case are convict(s), were served and notified pursuant 28 U.S.C § 2466 and most especially, those defendant(s) in those cases had the opportunity to decide and present themselves to the Jurisdiction in the United States.

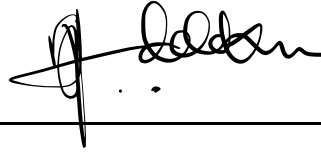
BUT IN THE CASE OF ADELAKUN, HIS FREEDOM OF MOVEMENT OUT OF THE UNITED ARAB EMIRATES IS BEING RESTRICTED SINCE OCTOBER 2019, WHERE HIS TRAVEL DOCUMENT(S) WERE TAKEN IN AS A BAIL GUARANTEE TO STAY IN THE UAE TO STAND TRIAL OVER THE SAME SUBJECT MATTER THAT THE U.S DISTRICT COURT IS BUSY WITH IN THIS COURT. SEE ALSO HEREWITH ANNEXURE "JA A 1".

SEE ATTACHED FURTHER SUPPORTING PAGES OF ARGUMENT HEREWITH - CONTD

MIE (Rev.08/2020) Motion and Brief in Support

WHEREFORE, I respectfully request that the Court grant the motion.

Dated: October 28th, 2021



Signature

Jyde Adela Kun

Printed Name

c/o 11300 EXPO BLVD, #1013

Street Address

SAN ANTONIO, TEXAS 78230

City, State, and Zip Code

+971 50 662 1652

Telephone Number

MIE (Rev.08/2020) Motion and Brief

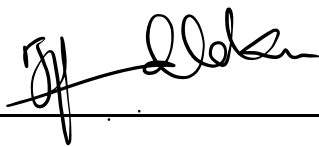
CERTIFICATE OF SERVICE

I certify that on this date October 28, 2021, I mailed by United States Postal Service this document to the following:

VIA EMAIL TO MARK.CHASTEEN@USDOJ.GOV / MICHAEL.EL-ZEIN@USDOJ.GOV

I already SENT again via the email, as the plaintiff was already notified of the Appeal Court order herewith.

Dated: October 28th, 2021



Signature
Jyde Adelakun

Printed Name
c/o 11300 EXPO BLVD, #1013

Street Address
SAN ANTONIO, TEXAS 78230

City, State, and Zip Code
+971 50 662 1652

Telephone Number

**DEFENDANT'S CONTD. BRIEF IN SUPPORT OF MOTION
FOR REVIEW, STAY OF PROCEEDINGS *INTER ALIA***

1

Case numbers : 20-mj-30135
: 20-mc-50585
: 19-cv-12313

ANSWERS TO ISSUES UNDER QUESTIONS 1 TO 8 CONTINUED.

- I. Save for this motion and all other motions filed by the defendant(s) in these matters, this court lacked the Jurisdiction from the outset, pursuant the provisions contained in article III section 2 of the United States Constitution, where there's no crime or such offense committed in the course of the execution of the said Payment agreement (BCMA), as falsely alleged in these matters to have commenced in the State of Georgia or Ohio and to have continued or resulted to the State of Michigan, but was falsely alleged in order to steal the Jurisdiction and to interfere unconstitutionally in the payment agreement entered freely and willfully between Worldpay as the processor and TOF Energy Corporation as the Merchant, the said payment agreement (BCMA) of which was construed, governed, without regard for the conflict of law, and enforced in accordance with the laws of the sovereign State of Ohio as empowered and guaranteed by the Tenth Amendment of the United States Constitution.***
- II. Further Save for this motion and all other motions filed by the defendant(s) in these matters, this court lacked the Jurisdiction from the outset, pursuant the provisions contained in article III section 2 of the United States Constitution, where the execution or fulfillment of the terms of the said payment agreement is NOT A FEDERAL CRIME OR ANY OFFENSE UNDER THE LAWS OF THE UNITED STATES OF AMERICA, but was falsely alleged in order to steal the Jurisdiction and to interfere unconstitutionally in the payment agreement entered freely and willfully between Worldpay as the processor and TOF Energy Corporation as the Merchant.***
- III. I hereby further adopt and RELY also on all the previous submissions of the defendant(s) in all the motions, as incorporated and pleaded also in this motion.***

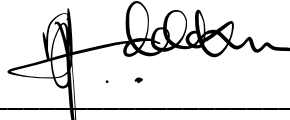
ANSWERS TO ISSUES UNDER QUESTION 9

I leave this issue to this honorable court to answer considering the Court of Appeals 7th Circuit in the case of **Ali Hijazi v. United States**, case no. 11 - 788, wherein the Court of Appeals granted the writ and ordered the district court.

**DEFENDANT'S CONTD. BRIEF IN SUPPORT OF MOTION
FOR REVIEW, STAY OF PROCEEDINGS *INTER ALIA***

2

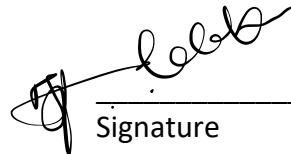
FURTHER WHEREFORE, I respectfully urge this court to allow the review and or the appeal of the defendant and grant the prayer(s) of the defendant(s) and to further grant all the other relief(s) sought by the defendant(s) in all the motion(s) as well as all such order(s) deemed appropriate in the duty to serving and protecting the Constitutional Provisions under the 4th, 5th, 6th 10th, and 14th Amendments of the Constitution and the laws of the United States of America.



Jyde Adelakun (Pro Se Filer / Litigant)

And on behalf of / in the interest of Myself and Touch of Fame Group

I certify that I have notified the plaintiff(s) at the office of the Attorney General of the United States of America via the electronic email mark.chasteen@usdoj.gov and Michael.el-zein@usdoj.gov on and prior this day October 28th, 2021, with copies of the motions, briefs in support and the exhibit(s) thereto.


Signature

Jyde Adelakun and on behalf of Touch of fame Group

Name of Filer (*Pro Se Litigant*)

Date: October 28th, 2021

Telephone: +971 50 662 1652

Address: 11300 Expo Blvd, #1013, San Antonio, TEXAS 78230

Email: adeljyde@gmail.com

EXHIBIT "JA A 1"

PROOF OF TRAVEL DOCUMENT TAKEN FROM DEFENDANT SINCE OCTOBER 2019



الإدارة العامة للتحريات والمباحث الجنائية
GEN. DEPT. OF CRIMINAL INVESTIGATIONS

شرطة دبي
DUBAI POLICE



التاريخ: ٢٠١٩/١٢/٨

الإدارة العامة للتحريات والمباحث الجنائية
إدارة مكافحة الجريمة المنظمة
قسم: مكافحة غسل الأموال والجرائم المالية

سند كفالة

أنا الموقع أدناه المدعو : جودي اريمو بريمو ادلاكون الجنسية : نيجيريا
المهنة : مستثمر العنوان: دبي رقم الهاتف: ٠٥٦٤٨٠٥٧٧٥ إقامة رقم: ٥٠١/٢٠١٧/٧/٠٠٠٥١١٢
الكفيل: تاتش اوف فيم تريندج م م ح المنطقة الحرة - ام القيوين

انا صاحب البيانات أعلاه اقر بأنني قد سلمت جواز سفري حضورياً رقم (A50021038) وذلك نظير كفالتي لنفسني
وانا مسؤولاً مسئولية كاملة أمام المحكمة المختصة والشرطة وأية جهة أخرى حين طلبي في الموعد المحدد ، وفي
حالة تخلفي أتعهد بدفع ما يترتب علي من مبالغ وبالإضافة إلى ما يحكم به عليه .

المستلم

الإسم : إبراهيم خليفة محمد المهيري
الرقم : ٤٠٢٨٧
الرتبة : ملازم
التوقيع :



المسلم

الإسم : جودي اريمو بريمو ادلاكون
الجنسية : نيجيريا
التوقيع :

ملاحظة: هذا السند غير قابل للرهن ولا يسلم الجواز الا بموجب اصل هذا السند